

**THE HONORABLE BODY
Council Chambers
Municipal Building
North Tonawanda, New York 14120
Tuesday, March 20, 2007
7:05P.M.**

REGULAR SESSION CALLED TO ORDER BY PRESIDENT SOMMER

ROLL CALL

**Present: President Sommer
 Aldermen Brick, Rizzo, Schwandt**

Absent: Alderman Donovan

**Also Present: Mayor Lawrence V. Soos
 Attorney Shawn P. Nickerson**

STUDENT GOVERNMENT DAY

Common Council President Brett Sommer introduced the students from the North Tonawanda Senior High School who were elected and appointed to various positions within City Government.

Conor McMahon	Mayor
Sarah Castiglione	Alderman at Large, Council President
Victor Group	Alderman at Large
Chris Cochran	1st Ward Alderman
Bryan Proch	2nd Ward Alderman
Magan Tuzzo	3rd Ward Alderman
Catherine Duquin	City Attorney
Madison Ackerman	City Judge
Soraya Abilmona	Treasurer
Shondra Becker	Accountant
Joel Martin	City Assessor
Randy Smith	Assistant City Attorney
Danielle McCullough	Building Inspector/Code Enforcement
Chelsea Aldridge	City Clerk
Melanie Anderson	City Engineer
Melissa Does	Director of Community Development
Kathie Hurley	Fire Chief

Colleen Wiechec	Appointed City Judge
Nicole VanGorder-Pratt	Police Chief
Dave Wesolowski	Superintendent of Public Works
Stephanie Wiechec	Director of Youth, Recreation & Parks
Erin Milette	Youth Board Chairperson
Abigail Starkey	Youth, Rec. & Parks Recreation Supervisor
Katie Hoffman	News Correspondent

APPROVAL OF THE MINUTES OF THE REGULAR SESSION MARCH 6, 2007

MOVED by Alderman Rizzo **SECONDED by Alderman Schwandt**
That the minutes of the regular session held March 6, 2007 be approved as circulated and filed in the Office of the City Clerk.
CARRIED.

APPROVAL OF THE MINUTES OF THE SPECIAL SESSION MARCH 13, 2007

MOVED by Alderman Sommer **SECONDED by Alderman Brick**
That the minutes of the special session held March 13, 2007 be approved as circulated and filed in the Office of the City Clerk.
CARRIED.

PROOF OF PUBLICATION PUBLISHED FEBRUARY 23 & 26, 2007

1) Bid – Repaving of East Robinson Street – City Engineer

MOVED by Alderman Schwandt **SECONDED by Alderman Sommer**
That the Common Council hereby receives and files the aforementioned Proofs of Publication.
CARRIED.

AUDIENCE PARTICIPATION

Keith Craigie, 347 Brentwood Drive – Asked about the agenda item regarding Briarwood Subdivision.

Debbie Gondek, 257 Brentwood Drive – Asked about the agenda item regarding Briarwood Subdivision.

COMMUNICATIONS FROM CITY OFFICIALS

I.1 Mayor

March 15, 2007

**North Tonawanda Common Council
City Hall, 216 Payne Avenue
North Tonawanda, New York 14120**

Re: Appointment to North Tonawanda Zoning Board of Appeals

Dear Honorable Body:

Please be advised that I am appointing Jerome DiVirgilio of 767 Payne Avenue, North Tonawanda, New York to the Zoning Board of Appeals for a five (5) year term effectively immediately and expiring on December 31, 2011. Mr. DiVirgilio will be replacing the current holdover member Ferdinand J. Wisniewski.

I am also requesting that the City Clerk provide written notification to each of the above-mentioned individuals of this action and arrange for the appropriate oath to be administered to the new appointee. Thank you.

Sincerely,
Lawrence V. Soos
Mayor

MOVED by Alderman Brick SECONDED by Alderman Rizzo
That the Common Council hereby receives and files the aforementioned communication.
CARRIED.

I.2 Mayor

March 16, 2007

North Tonawanda Common Council
City Hall, 216 Payne Avenue
North Tonawanda, New York 14120

Re: Appointment to North Tonawanda Board of Assessment Review

Dear Honorable Body:

Please be advised that I am appointing Suzanne Needler of 1649 Fillner Avenue, North Tonawanda, NY 14120 to the Board of Assessment Review. Her term will begin immediately and expire September 30, 2011.

I am also requesting that the City Clerk provide written notification to Ms. Needler of this appointment and arrange for the appropriate oath to be administered to the new appointee. Thank you.

Sincerely,
Lawrence V. Soos
Mayor

MOVED by Alderman Rizzo SECONDED by Alderman Schwandt
That the Common Council hereby receives and files the aforementioned communication.
CARRIED.

II.1 Attorney

March 15, 2007

Honorable Mayor and Common Council
City Hall, 216 Payne Avenue
North Tonawanda, New York 14120

Re: Sale of Niagara River Yacht Club

Dear Honorable Body:

City Engineer Dale W. Marshall was recently contacted by the New York State Department of State. Their letter was in response to the SEQRA Coordination Letter the City submitted on or about January 17, 2007.

As part of that department's review process, they have requested that the City address its Local Waterfront Revitalization Program (hereinafter referred to as "LWRP"). This legislation was adopted by the North Tonawanda Common Council on February 16, 1988.

Specifically, the Department of State refers to the LWRP's Policy #20. This policy deals with the "Access to Publicly Owned Foreshore". The objective of Policy #20 is to refrain from actions which would significantly affect access and rights to lands adjacent to publicly owned waterfront property.

Since the 1950's, the privately-owned Niagara River Yacht Club has leased this waterfront property. From the time of the original lease, the club has operated the property as a private marina on this 4 acre parcel. This waterfront property was leased to a private entity well before the 1988 adoption of the LWRP. Accordingly, the public never had true "public access" to the waterfront from this property.

Further, as you are aware, the City is in the process of taking title to the 53 acre Gratwick-Riverside Park from National Grid. The park is immediately adjacent to the north of the yacht club and will be maintained as parkland by the City in perpetuity. Accordingly, despite the sale of the yacht club, the transfer of Gratwick-Riverside Park would significantly increase public access to the Niagara River waterfront.

As previously stated, the Department of State requires that the City address the LWRP. Accordingly, to allow the transfer of the Niagara Yacht Club, it is necessary for your Honorable Body to pass a resolution that the sale would not be contrary to the provisions of Policy #20 of the LWRP. Thank you for your consideration. If you have any questions please feel free to contact me.

Yours truly,
Shawn P. Nickerson
North Tonawanda City Attorney

MOVED by Alderman Rizzo

SECONDED by Alderman Sommer

That the Common Council hereby acknowledges that the sale of the Niagara River Yacht Club will not be contrary to the provisions of Policy #20 of the Local Waterfront Revitalization Program.

CARRIED.

II.2 Attorney

March 15, 2007

Honorable Mayor & Common Council
216 Payne Avenue
North Tonawanda, New York 14120

Re: Special Assessment Districts Regarding
The Briarwood Subdivision

Dear Honorable Body:

The Briarwood Subdivision has been approved by the Planning Commission and the map has been recorded in the Niagara County Clerk's Office. Now it is time to establish the special assessment districts to finance the improvements that were installed or about to be installed in said subdivision.

The procedure is for the Council to pass a resolution stating its intention to establish said district. Said intention is then published in the official newspaper for two successive weeks and a notice is mailed to each affected property owner. After these notices, the council may move ahead and establish said special assessment districts.

If you concur, please pass the following two resolutions:

1. Be it hereby resolved that the Common Council hereby declares its intention to establish a special assessment district for the purpose of financing the installation of sanitary sewers, storm water sewers, water mains, paving a curbing and any other required infrastructure affecting the following parcels: Tax Map Nos.: 182.20-2-77; 182.20-20-78; 182.20-2-79; 182.20-2-80; 182.20-2-81; 182.20-2-82; 182.20-2-83; 182.20-2-84; 182.20-2-85; 182.20-2-86; 182.20-20-87; 182.20-2-88; 182.20-2-89; 182.20-2-90; 182.20-2-91; 182.20-2-92; 182.20-2-93; 182.20-2-94; 182.20-2-95; 182.20-2-96; 185.08-4-64; 185.08-4-65; 185.08-4-66; and 185.08-4-67. Furthermore, the City Clerk is hereby directed to publish said intention in the official newspaper once each week for two successive weeks and to mail a copy of said notice to each affected property owner. Said special assessment district will be voted upon at the regular Common Council meeting to be held on April 17, 2007.

2. Be it hereby resolved that the Common Council hereby declares its intention to establish a special assessment district for the purpose of financing the installation of sanitary sewers, storm sewers, water mains and any other required infrastructure affecting the following parcels: Tax Map Nos.: 182.20-2-76 and 182.20-2-4.12, as those parcels may be subdivided for the Briarwood Drive right-of-way, to include all portions of those parcels which shall abut the proposed Briarwood Drive right-of-way. Furthermore, the City Clerk is hereby directed to publish said intention in the official newspaper once each week for two successive weeks and to mail a copy of said notice to each affected property owner. Said special assessment district will be voted upon at the regular Common Council meeting to be held on April 17, 2007.

Very truly yours,
Robert Sondel
Assistant City Attorney

MOVED by Alderman Sommer

SECONDED by Alderman Rizzo

BE IT HEREBY RESOLVED that the Common Council hereby declares its intention to establish a special assessment district for the purpose of financing the installation of sanitary sewers, storm water sewers, water mains, paving a curbing and any other required infrastructure affecting the following parcels: Tax Map Nos.: 182.20-2-77; 182.20-20-78; 182.20-2-79; 182.20-2-80; 182.20-2-81; 182.20-2-82; 182.20-2-83; 182.20-2-84; 182.20-2-85; 182.20-2-86; 182.20-20-87; 182.20-2-88; 182.20-2-89; 182.20-2-90; 182.20-2-91; 182.20-2-92; 182.20-2-93; 182.20-2-94; 182.20-2-95; 182.20-2-96; 185.08-4-64; 185.08-4-65; 185.08-4-66; and 185.08-4-67. Furthermore, the City Clerk is hereby directed to publish said intention in the official newspaper once each week for two successive weeks and to mail a copy of said notice to each affected property owner. Said special assessment district will be voted upon at the regular Common Council meeting to be held on April 17, 2007.

BE IT HEREBY RESOLVED that the Common Council hereby declares its intention to establish a special assessment district for the purpose of financing the installation of sanitary sewers, storm sewers, water mains and any other required infrastructure affecting the following parcels: Tax Map Nos.: 182.20-2-76 and 182.20-2-4.12, as those parcels may be subdivided for the Briarwood Drive right-of-way, to include all portions of those parcels which shall abut the proposed Briarwood Drive right-of-way. Furthermore, the City Clerk is hereby directed to publish said intention in the official newspaper once each week for two successive weeks and to mail a copy of said notice to each affected property owner. Said special assessment district will be voted upon at the regular Common Council meeting to be held on April 17, 2007.

Ayes: Brick, Rizzo, Schwandt, Sommer

(4)

Nays: None

(0)

CARRIED.

In the agreement, the City agrees to pay \$500 per month rent for the use of Mr. Eisenhower's property for the duration of the project, estimated at 60 days.

Very truly yours,
 Dale W. Marshall, P.E.
 City Engineer

MOVED by Alderman Schwandt **SECONDED** by Alderman Sommer
 That the Common Council hereby authorizes the Mayor to sign the temporary easement agreement with Thomas J. Eisenhower of 80 Old Falls Boulevard. The easement is required because it is necessary that the City use the adjoining private property for staging of equipment to construct the replacement of the Deerwood Golf Course pump station and further that the City agrees to pay \$500 per month rent for the use of the Mr. Eisenhower's property for the duration of the project, estimated at 60 days.

Ayes: Brick, Rizzo, Schwandt, Sommer (4)
 Nays: None (0)
CARRIED.

IV.4 Engineer

March 15, 2007

Lawrence V. Soos, Mayor
 and Common Council Members
 City Hall
 North Tonawanda, New York 14120

**Re: Project 2006-01, Old Falls Boulevard Reconstruction
 Change Order No. 1, Final Payment and Project Acceptance**

Honorable Body:

Your approval of Change Order No. 1, approval of final payment and project acceptance for the Old Falls Boulevard Reconstruction Project is hereby requested. As you are aware, this project is funded in by City bonded funds, in combination with New York State Department of Transportation Consolidated Highway Improvement (CHIPs) funds.

Change Order No. 1 represents additional costs based on final measured quantities and additions to the contract that were necessary to complete the work. The following is a summary of the change order work:

• Deduct for final measured quantities	-\$55,399.50
• Lateral/water service conflicts, televising & various service repairs	\$16,238.50
• Install four (4) new catch basins	\$6,312.00
• Install asphalt driveway at 369 O.F.B.	\$960.00
• Repair terrace area and install asphalt overlay at 369 O.F.B.	\$7,722.89
• Reinstall traffic loop detector at N.F.B. intersection	\$2,581.50
• Extra 44 tons of asphalt top at Lockport Road	<u>\$2,816.00</u>
Change Order Deduct Amount	-\$18,768.61

I therefore respectfully request that the Common Council approve Change Order No.1, decreasing the contract amount with Northeast Diversification, 2 Cadby Industrial Park, Lancaster, NY 14086 by the sum of \$17,768.61; from \$966,823.00; to the revised final contract amount of \$948,054.39 and that the Mayor be authorized to sign said change order subject to review by the City Attorney.

Further, that the Contractor has supplied the City with the Substantial Completion Form, Affidavit for Final Payment, Consent of Surety, and Form of Guarantee.

Accordingly, I hereby request that the Common Council accept Project 2006-01, Old Falls Boulevard Reconstruction (Louisa Street to Niagara Falls Boulevard) and approve the final payment, subject to review by the City Attorney.

Very truly yours,
Dale W. Marshall, P.E.
City Engineer

MOVED by Alderman Rizzo

SECONDED by Alderman Sommer

That the Common Council hereby accepts Project 2006-01, Old Falls Boulevard Reconstruction (Louisa Street to Niagara Falls Boulevard) and approves Change Order No.1, decreasing the contract amount with Northeast Diversification, 2 Cadby Industrial Park, Lancaster, NY 14086 by the sum of \$17,768.61; from \$966,823.00; to the revised final contract amount of \$948,054.39; approves the final payment and authorizes the Mayor to sign said change order subject to review by the City Attorney.

Ayes: Brick, Rizzo, Schwandt, Sommer

(4)

Nays: None

(0)

CARRIED.

VII.1 Accountant

March 14, 2007

Honorable Lawrence V. Soos, Mayor
and Common Council
City Hall
North Tonawanda, New York 14120

Dear Honorable Body:

In accordance with Article V, Division 1, Section 5.002 and 5.003 of the City Charter, an Abstract Sheet, comprised of a Warrant of Claims, has been submitted by this office for your review and approval.

Accordingly, please authorize for payment the current Warrant of Claims for Common Council audit, dated March 20, 2007, and further authorize the Mayor and City Clerk to respectively sign and countersign said Warrant.

Very truly yours,
David R. Jakubaszek
City Accountant

MOVED by Alderman Brick

SECONDED by Alderman Schwandt

That the Common Council hereby authorizes for payment the current Abstract of Claims for Common Council Audit dated March 20, 2007 and further authorizes the Mayor and City Clerk respectively sign and countersign said Warrant:

01	General Fund	\$283,881.64
02	Water Fund	12,121.94
04	Sewer Fund	33,391.32
06	Capital Project Fund	5,917.03
07	Trust & Agency Fund	7,062.28
08	Community Development	465.63
11	General Fund Encumbered	105,039.59
17	Home Rehab Progarm	11,100.00
18	Housing Rehab (PI) Fund 5	475.00
	Final Total	<u>\$459,454.43</u>

Ayes: Brick, Rizzo, Schwandt, Sommer

(4)

Nays: None

(0)

CARRIED.

MOVED by Alderman Rizzo **SECONDED by Alderman Brick**
That the Common Council hereby authorizes Mayor Soos to sign the Campground Feasibility Study Agreement with Staves Consulting Inc., 3191 Parkhill Dr., Billings, Montana 59102. The cost of the study will be Seven Thousand Dollars (\$7,000).
Ayes: Brick, Rizzo, Schwandt, Sommer **(4)**
Nays: None **(0)**
CARRIED.

XXV. Monthly Reports

.1	Building Inspector	.3	Treasurer
.2	Police	.4	Treasurer Investments

MOVED by Alderman Brick **SECONDED by Alderman Sommer**
That the Common Council hereby receives and files the aforementioned monthly reports.
CARRIED.

XXVI.1 Annual Vacation and Sick Leave Reports

.1	Accountant	.2	City Clerk
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MOVED by Alderman Rizzo **SECONDED by Alderman Schwandt**
That the Common Council hereby receives and files the aforementioned Annual report.
CARRIED.

COMMUNICATIONS FROM OTHERS

A.
Active Hose Co. #2 - **Re: Exemption Petitions:**

Ronald Piwtorak – 25 years
Paul Priano – 25 years
Edward Smolinski – 25 years
Harold Mante – 35 years

MOVED by Alderman Brick **SECONDED by Alderman Schwandt**
To issue exemption certificates to: Ronald Piwtorak – 25 years, Paul Priano – 25 years, Edward Smolinski – 25 years and Harold Mante – 35 years.
CARRIED.

B.
Live Hose Co. No. 4 - **Re: Exemption Petition:**

George K. Walters – 25 years

MOVED by Alderman Brick **SECONDED by Alderman Schwandt**
To issue an exemption certificate to George K. Walters – 25 years.
CARRIED.

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C.
Janet L Smolinski
Peter E. Smolinski

March 11, 2007

Honorable Common Council
216 Payne Avenue
North Tonawanda, New York 14120

Dear Council Members:

We respectfully request the designation of Commissioner of Deeds. Our current terms expire May 4, 2007.

Thank you,
Janet L Smolinski
Peter E. Smolinski
449 Robert Drive
North Tonawanda, NY 14120

MOVED by Alderman Rizzo **SECONDED** by Alderman Sommer
That the Common Council hereby appoints Janet L Smolinski, 449 Robert Drive, North Tonawanda, NY 14120 and Peter E. Smolinski, 449 Robert Drive, North Tonawanda, NY 14120 as Commissioners of Deeds for the City of North Tonawanda for a term beginning May 5, 2007 expiring May 4, 2009.
CARRIED.

D.
Nancy Donovan

MOVED by Alderman Rizzo **SECONDED** by Alderman Brick
That the Common Council hereby approves the proposal to increase the Veterans Cap from the existing \$60,000 to \$80,000 for City taxes and the Mayor will schedule a public hearing for Tuesday, April 3, 2007 at 6:15PM.
Ayes: Brick, Rizzo, Schwandt, Sommer (4)
Nays: None (0)
CARRIED.

AUDIENCE PARTICIPATION

Keith Craigie, 347 Brentwood Drive – Asked if Application for Wetland Permits have been submitted to the DEC.

Sarah Hansgate, North Tonawanda High School – Thanked the City Officials and Students for participating in Student Government Day.

Debbie Gondek, 257 Brentwood Drive – Submitted a list of questions to be answered by City regarding Briarwood Subdivision.

ADJOURNMENT

MOVED by Alderman Sommer **SECONDED** by Alderman Brick
That this regular session of the Common Council be and hereby is adjourned.
CARRIED.

Time of Adjournment: 7:45 P.M.

Respectfully submitted,

Thomas M. Jaccarino
City Clerk

03-20-07